



Patent Application
Attorney Reference No.: 56130.000074
Client Reference No.: 13326ROUS01U

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: :
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Nicholas Sauriol et al. : Group Art Unit: 2141
:
Appln. No.: 10/029,855 :
: Examiner: Nicholas Taylor
Filed: December 31, 2001 :
:
For: SYSTEM AND METHOD FOR NETWORK :
CONFIGURATION ENGINE :

Mail Stop AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Pursuant to the Pre-Appeal Brief Conference Pilot Program announced in the Official Gazette, Applicant hereby requests a pre-appeal brief conference in the above-referenced case.

This application is appropriate for a pre-appeal brief conference. A brief history of this application and why Applicant believes that an appeal will succeed are set forth below.

This application was filed almost four years ago on December 31, 2001. On March 14, 2005, an initial office action was issued rejecting all twenty (20) claims under 35 U.S.C. §102(e) as being unpatentable over Kekic (U.S. Patent No. 6,788,315).

Despite various attempts to distinguish this application from the cited references, the Office continued to issue office actions rejecting all claims in view of the above reference that are certain to be overturned on appeal. Currently, claims 1-24 stand rejected under §102(e) as being unpatentable over Kekic, or under §103(a) as being unpatentable over Kekic in view of Henderson. Rather than further time being spent addressing these references, Applicant has elected to pursue the new pilot program.

As set forth in greater detail in Applicant's responses dated June 13, 2005 and October 21, 2005, the cited references - - taken either singly or in combination -- fail to teach or suggest numerous recitations of the pending claims. In particular, Applicant respectfully submits that Kekic -- as evidenced by the excerpts relied upon by the Examiner -- does not teach or suggest the step of "abstracting interface data regarding at least one network element," as expressly set forth in claims 1 and 11. In fact, the element manager 800 referenced by the Examiner merely comprises an abstract representation managed computer network element, not any feature or functionality that actually performs the step of "abstracting." See, e.g., Kekic, Col. 26, lines 41-58 (emphasis added).

Further, Applicant respectfully submits that, unlike Kekic, the claimed systems and methods comprise a configuration engine which serves to actually abstract the hardware and software specifications and interfaces from one or more manufacturers while permitting simulation and configuration of assembled networks to take place. See, e.g., Page 2, lines 8-17. Applicant respectfully submits that maintaining or storing abstracted information, as is the case with Kekic, is not the same as performing the actual step of "abstracting" such information. Moreover, Applicant respectfully submits that even if Kekic does teach or suggest some form of "abstracting" -- which it clearly does not -- Kekic does not "abstract interface data regarding the at least one network element," as expressly set forth in claim 1, for example.

Indeed, Applicant respectfully submits that Kekic does not teach or suggest any feature or functionality that "abstract[s] interface data regarding at least one network element," as expressly recited in claims 1 and 11. Rather, Applicant respectfully submits that Kekic merely discloses the storage of information characterizing the operation of the network element, not the affirmative step of abstracting interface data. See, e.g., Kekic Patent, Col. 16, lines 27-44 (emphasis added).

Applicant respectfully submits that storing information about the operation of a network element does not teach or suggest the affirmative act or step of "abstracting" interface data regarding the at least one network element. Accordingly, Applicant respectfully requests that the anticipation rejection of claims 1 and 11 be withdrawn.

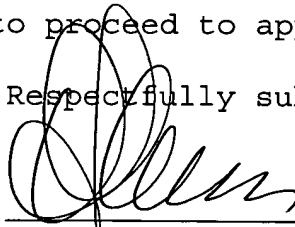
Claims 2-10 and 12-24 are dependent upon independent claim 1 or 11. Thus, since independent claims 1 and 11 should be allowable as discussed above, claims 2-10 and 12-24 should also be allowable at least by virtue of their dependency on independent claim 1 or 11. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claims 23 and 24 recite "wherein network configuration occurs without having to execute a different proprietary tool for each of the at least one network element." Applicant respectfully submits that Kekic does not teach or suggest a processor that operates in the manner recited by the pending claims 23 and 24.

Further, regarding claims 21 and 22 Applicant respectfully submits that the Examiner has not cited a proper motivation for one of ordinary skill in the art to combine Kekic and Henderson. In particular, Applicant respectfully submits that Henderson's

general discussion of "flexibility" fails to motivate one of ordinary skill in the art to specifically combine Kekic's platform independent computer network manager with Henderson's network management system. More specifically, Henderson relates to a network management architecture that provides an overlay in which network management functions are performed, and thus would not benefit from incorporating Kekic's system and method for managing computer elements through managed element servers and clients.

For these reasons, Applicant requests an appeal conference be convened to advise Applicant whether the Office will 1) allow the present claims, 2) reopen prosecution and issue a new office action or 3) allow this case to proceed to appeal.

Respectfully submitted,



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